

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board

From: Ken Lerner

Date: July 7, 2015

RE: 111 Colchester Avenue; 15-1219AP

File: 15-1219AP

Location: 111 Colchester Avenue

Zone: Institutional; Core Campus Overlay (ICC-UVM) **Ward:** 1

Date appeal accepted: May 27, 2015

Date of administrative decision: May 12, 2015

Owner/Appellant: UVM-Medical Center/Martha Lang

Request: Appeal of Administrative Determination by Code Enforcement of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use.

Appeal

The appellant's statement is attached.

Appellant argues that the hospital addition is within the UVM Core Overlay (ICC-UVM) and thus requires a zoning change as hospital uses are not permitted in that overlay. Appellant is requesting that the permit approved for the hospital expansion be revoked due to the requirement for a "major impact" review. Appellant also points out that this is a use change.

Background Facts/Overview:

- Zoning Permit 14-1321CA, a request to build a new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements, was approved by the Development Review Board on September 8, 2014.
- No appeal of ZP 14-1321CA was taken.
- A condition of approval of ZP 14-1321CA required, "A boundary line adjustment will need to be secured to allow for development under this approval. All requirements as noted in Section 10.1.5 for filing a plat/mylar will be in effect."
- On December 22, 2014, Fletcher Allen Heath Care, Inc. received approval for Zoning Permit ZP# 15-0664LL for a proposed lot line adjustment with the UVM Main Campus.
- On December 23, 2014, University of Vermont and State Agricultural College received approval for Zoning Permit ZP# 15-0665LL for a proposed lot line adjustment with the UVM Main Campus and UVM Medical Center.
- On January 5, 2015, appeals of ZP# 15-0664LL and ZP# 15-0664LL were filed.
- On February 10, 2015, the appeals of ZP# 15-0664LL and ZP# 15-0665LL were withdrawn.
- On April 8, 2015 a complaint was filed that hospitals are not permitted in UVM-ICC, and that the zoning map must be changed to extend FAHC-ICC before the request to build a

new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements can be approved.

- After review of the matter, Code was not able to substantiate the complaint. Zoning Permit 14-1321CA, including the findings, was not appealed and is now final pursuant to 24 V.S.A. §4472(d). The current and purposed use and location of the project were clearly identified in the application materials as indicated by the staff report and findings of the Board.

Response to Appellant

Zoning Permit #14-1321CA to build a new approximately 208,000 sq. ft. Inpatient Building west of the Ambulatory Care Center building at the Medical Center Campus with parking lot improvements was approved by the DRB on September 8, 2014. As noted above, no appeal of this action was taken by any party. Pursuant to 24 VSA §4472 (d):

Exclusivity of remedy; finality:

Upon the failure of any interested person to appeal to an appropriate municipal panel under section 4465 of this title, or to appeal to the Environmental Division under section 4471 of this title, all interested persons affected shall be bound by that decision or act of that officer, the provisions, or the decisions of the panel, as the case may be, and shall not thereafter contest, either directly or indirectly, the decision or act, provision, or decision of the panel in any proceeding, including any proceeding brought to enforce this chapter. (Added 1967, No. 334 (Adj. Sess.), § 1, eff. March 23, 1968; amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974; 1973, No. 255 (Adj. Sess.), § 3, eff. April 9, 1974; 1973, No. 261, (Adj. Sess.), § 8, 1993, No. 232 (Adj. Sess.), § 49, eff. March 15, 1995; 2003, No. 115 (Adj. Sess.), § 107; 2009, No. 154 (Adj. Sess.), § 236.)

And CDO Section 12.5.2:

“Finality”:

Upon the failure of any interested person to appeal to the DRB or to the environmental court, all interested persons affected shall be bound by such decision or act of such administrative officer, such provisions or such decisions of the DRB, as the case may be, and shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision in any proceeding, including without limitation, any proceeding brought to enforce this ordinance.

Thus, the approved zoning permit cannot now be contested directly or indirectly and all persons are bound by that decision. The current and purposed use, and location, of the project were clearly identified in the application materials as indicated by the staff report and findings of the Board.

Request:

Deny the appeal and **uphold the administrative determination** per the above facts and the finality status of the approval of the new inpatient wing for the UVM Medical Center.